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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/533,240	11/28/2005	Heinz Focke	Q87659	7061
23373	7590	07/08/2010	EXAMINER	
SUGHRUE MION, PLLC 2100 PENNSYLVANIA AVENUE, N.W. SUITE 800 WASHINGTON, DC 20037			DEMEREE, CHRISTOPHER R	
			ART UNIT	PAPER NUMBER
			3782	
			NOTIFICATION DATE	DELIVERY MODE
			07/08/2010	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

sughrue@sughrue.com
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Office Action Summary

Application No.

10/533,240

Applicant(s)

FOCKE ET AL.

Examiner

CHRISTOPHER DEMEREE

Art Unit

3782

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 March 2010.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 12-18 and 24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 12-18 and 24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/GS/US)
Paper No(s)/Mail Date _____

- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 12-18 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brizzi (US 6755300 B2) in view of Jackson et al. (GB 819206 A; hereinafter Jackson).

Regarding claims 12, 13, 18 and 24, Brizzi teaches a hinge-lid box and the blank for making, made of cardboard or similar packaging material (Col 2 lines 35-38), in particular for cigarettes, comprising a box part (2), lid (4) and collar (see illustration below) and having longitudinal edges (13) and transverse edges (16) running crosswise thereto, characterized in that the longitudinal edges and/or transverse edges are configured by the deformation or embossing of the packaging material as an outwardly directed projection (see Fig. 3) having a round cross-section.

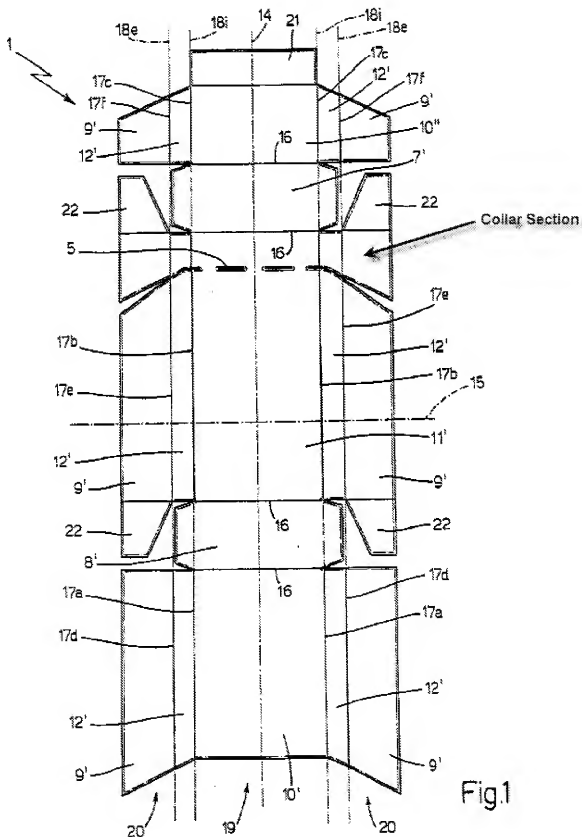


Fig.1

Brizzi lacks fold lines that project outward through deforming or embossing the package material. Jackson teaches a box comprising corner folds; wherein said folds comprising a semi-circular rounded projection of a three-quarter circle (16; see Figures 1 and 2). It would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to modify Brizzi's container's fold-lines to be made of an embossment forming a circular projection in order to create corners with increased strength (Jackson; Page 2 lines 125-130).

Regarding claim 14, Brizzi, as modified above, teaches a hinge-lid pack characterized in that the collar has upright collar edges which correspond in shape to the longitudinal edges of the pack. Examiner notes that Brizzi's collar corresponds to the general shape [width] of the blank (see above).

Regarding claim 15, Brizzi, as modified above, teaches a hinge-lid pack characterized in that box side tabs (Brizzi; 9') for the formation of box side walls and lid side tabs (Brizzi; 22) for the formation of lid side walls overlap one another only in a region between the assigned intermediate edges.

Regarding claim 16, Brizzi, as modified above, teaches a hinge-lid pack characterized in that for the configuration of the transverse edges as a projection or recess, corner tabs, namely base corner tabs (Brizzi; 22) and/or end corner tabs (Brizzi; 22) are configured with a smaller width such that the corner tabs can be positioned exclusively between the transverse edges (Brizzi; see Fig. 1) configured as a projection or recess. Examiner notes that the corner tabs are cut with a tapered shape that defines a width shorter than the side walls.

Regarding claim 17, Brizzi, as modified above, discloses the claimed invention except for defining the radius of the projection to be between 1.5 and 4 mm. It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the projection have a radius of 1.5 to 4 mm, since it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art. In re Boesch, 617 F.2d 272, 205 USPQ 215 (CCPA 1980).

Response to Arguments

3. Applicant's arguments filed 3/25/2010 have been fully considered but they are not persuasive. Applicant argues that Brizzi modified by Jackson fails to meet Claim 24 because of non-analogous art; and Applicant contends that Jackson fails to disclose a "rounded projection of a three-quarter circle".

Examiner notes that Brizzi discloses the hinge-lid pack and the blank for making, as claimed, except for an outward deforming or embossing at longitudinal fold lines that form said pack. Brizzi's deforming is directed inward, not outward. Jackson also teaches a hinge-lid pack (analogous art), wherein folds are strengthened with an outward deforming (16). It would have been obvious to modify Brizzi's deforming by using an outward deforming, as opposed to an inward deforming, over the longitudinal length of the pack in order to strengthen the pack at said folds, as taught by Jackson (Page 2 lines 125-130).

Examiner also notes that Claim 24 states that the projection formed by the deforming "has a cross-section approximately in the shape of a three quarter circle".

Examiner considers Jackson element 16 to indeed show an approximation of a three quarter circle (Jackson; see Fig. 2).

Conclusion

4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **CHRISTOPHER DEMEREE** whose telephone number is (571)270-1982. The examiner can normally be reached on Mon-Fri, 8:00 AM-5:00PM, Alt Fri, EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan Newhouse can be reached on (571) 272-4544. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Christopher Demeree/
Examiner, Art Unit 3782

/Nathan J. Newhouse/
Supervisory Patent Examiner, Art Unit 3782